

Legal Counsel Approval _____

RL15-150

Introductory No. LL15-2

Permanent No. _____



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: September 9, 2015

Sponsored by Council Members: Rennia, Webb, Motsavage, Berg, Mihalko

Introduced by Committee: Municipal and Public Affairs

LOCAL LAW
entitled
**A LOCAL LAW ADOPTING THE POLICE
MODERNIZATION LAW**

WHEREAS, the City of Binghamton wishes to adopt a Police Modernization Law for the reasons stated therein; and

WHEREAS, a public hearing was duly noticed and held on August 19, 2015.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That the Code of the City of Binghamton, is hereby amended to add a new Chapter 312, *Police Modernization Law* as annexed hereto and made a part hereof.

Section 2. That this Local Law shall take effect upon filing with the Secretary of State.

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A LOCAL LAW ADOPTING THE POLICE
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The within Local Law was adopted by the Council of
the City of Binghamton.

Date

City Clerk

Date Presented to Mayor

Date Approved

Mayor

	Ayes	Nays	Abstain	Absent
Motsavage				
Mihalko				
Rennia				
Webb				
Papastrat				
Matzo				
Berg				
Total				

☐ Code of the City of Binghamton

☐ Adopted ☐ Defeated

____ Ayes ____ Nays ____ Abstain ____ Absent

CHAPTER 312
POLICE MODERNIZATION LAW

§ 312-1: STATEMENT OF POLICY

A. Recent racially charged national tragedies involving law enforcement highlight the need to take proactive steps to improve policing practices, ensure public accountability, and solidify trust between our law enforcement officers and the residents they serve and protect through transparency and respect. Recognizing that the United States and New York State Constitutions guarantee the equal protection of all citizens under the laws, and the right of all persons to be secure in their person, the City of Binghamton is committed to the equal treatment of all citizens by law enforcement officers.

Racial profiling and bias-based policing have been uniformly condemned at the highest levels of government, our legal system, and by our own Police Administration. These policies have been found to be illegal and unconstitutional. In addition, scientific research has determined that racial profiling and bias-based policing are inefficient and increase community distrust, making policing more difficult and dangerous for officers. Therefore, racial profiling and bias-based policing are considered illegal policing practices in the City of Binghamton.

Determined to ensure unconstitutional policing does not occur in our city, the Binghamton Police Department is open to any resources that can assist in improving the protection of our residents and officers.

B. This Law establishes three priorities that will be instrumental in protecting against racial profiling and bias-based policing, improve police-community relations and making a better and safer city for all residents. These priorities are: (1) the consistent tracking, analysis and reporting of all vehicle and pedestrian stops; (2) cultural competency and anti-racism training as part of annual in-service training of all officers; and (3) diversification of the police force.

§ 312-2: DEFINITIONS

A. The terms racial profiling and bias-based policing mean the practice of a law enforcement agent, or agency relying, to any degree, on race, ethnicity, national origin, religion, gender, gender expression, and/or sexual orientation, in selecting which individuals to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is probable cause, relevant to the locality and time frame, that links a person of a particular race, ethnicity, national origin, religion, gender, gender expression, and sexual orientation, to an identified criminal incident or scheme.

§ 312-3: POLICIES TO REINFORCE EQUAL PROTECTION

A. It shall be the policy of the Binghamton Police Department to:

- (1) maintain adequate policies and procedures designed to eliminate racial profiling and bias-based policing;

(2) collect data in accordance with guidelines issued by the Binghamton Human Rights Commission and approved by the Binghamton City Council and the Mayor of the City of Binghamton;

(3) provide its law enforcement agents with mandatory cultural competency, implicit bias, and procedural justice training, as part of the annual in-service training, that incorporate learning objectives that highlight the ineffectiveness and deleterious impact of racial profiling and bias-based policing as a law enforcement practice, and emphasizes cultural sensitivity and respect;

(4) endeavor to increase diversity of law enforcement employees, with the goal of achieving a demographic makeup comparable to the community it serves.

§ 4: DATA COLLECTION

Data collection, analysis and reporting are essential tools in preventing racial profiling and bias-based policing before it happens, as well as in identifying and eliminating racial profiling and bias-based policing when it does occur. By implementing a comprehensive data collection, analysis and reporting plan, the City of Binghamton intends to demonstrate its commitment to the prevention of racial profiling and bias-based policing.

A. REGULATIONS. Not later than six months after the date of enactment of this Act, the Binghamton Human Rights Commission, in consultation with stakeholders, including City of Binghamton law enforcement agencies and community, professional, research, and civil rights organizations, shall recommend guidelines for the collection and compilation of data (including demographic information and justifications for stops, searches, arrests, detentions, use of force, and injuries related to law enforcement actions) to the Binghamton City Council and the Mayor of the City of Binghamton for consideration and approval.

B. REQUIREMENTS. The regulations issued under subsection (A) shall:

(1) provide for the collection of data on all routine or spontaneous investigatory activities;

(2) provide that the data collected shall:

(a) be collected by race, ethnicity, national origin, gender, gender expression, and sexual orientation;

(b) include the date, time, and location of such investigatory activities;

(c) include detail sufficient to permit an analysis of whether a law enforcement agency is engaging in racial profiling or bias-based policing; and

(d) not include personally identifiable information;

(3) provide that a standardized form (i.e., the Motor Vehicle Stop Data Collection Form, Code 710Z or later enhanced forms similar to this) shall be made available to all Binghamton police officers engaging with the public;

(4) provide that the Binghamton Police Department shall compile data in a standardized format including data under paragraph (ii), and submit the form biannually to the Mayor of the City of Binghamton, the Binghamton City Council, and the Binghamton Human Right Commission;

(5) provide that law enforcement agencies shall maintain all data collected under this Act for not less than 7 years;

(6) include guidelines for setting comparative benchmarks, consistent with best practices, against which collected data shall be measured;

- (7) analyze the data for any statistically significant disparities, including:
 - (a) disparities in the percentage of drivers or pedestrians stopped relative to the proportion of the population;
 - (b) disparities in the hit rate; and
 - (c) disparities in the frequency of discretionary searches performed on drivers of one protected class in comparison to the frequency of searches performed on drivers outside of such class ; and
- (8) not later than two (2) years from the date of enactment of this Act, and annually thereafter:
 - (a) prepare a report describing and summarizing the findings of the analysis conducted under subparagraph 7.(a);
 - (b) provide such report annually to the Mayor of the City of Binghamton, the Binghamton City Council and the Binghamton Human Rights Commission; and
 - (c) make such report and the aggregated data available to the public by posting a copy of the report on the City of Binghamton's website, include findings from the report in the Binghamton Police Department's annual report, and making the report and aggregated data available through requests made pursuant through the Freedom of Information Law.

C. INTENDED USE OF DATA

- (1) The Mayor of the City of Binghamton shall take all requisite measures to respond to any data that is indicative of racial profiling or bias-based policing by the Binghamton Police Department.
- (2) The Binghamton Human Rights Commission and the Binghamton Police Chief shall develop appropriate responses to data that shows a high rate of racial profiling or bias-based policing conducted by any individual law enforcement agent.
- (3) Data will be made available to the public.
- (4) Individuals who believe they have been racially profiled may have access to the data and use it as evidence as to whether racial profiling or bias-based policing exists in the City of Binghamton Police Department.

§ 312-5: TRAINING

Personal experience, education and personal values shape the judgments of law enforcement personnel and these judgments can affect the outcomes of potentially life-threatening situations. Understanding cultural differences, and the way they affect human behavior, can help prevent or de-escalate situations that law enforcement personnel face on a daily basis – situations that not only put them at risk, but may increase distrust or create potential legal problems; it can help make policing more effective; and it helps police avoid misunderstandings, grievances and potential lawsuits.

A. REGULATIONS. Not later than six months after the date of enactment of this Act, the Binghamton Human Rights Commission, in consultation with stakeholders, including City of Binghamton Police Department and community, professional, research, and civil rights organizations, shall recommend to Binghamton City Council and the Mayor of the City of Binghamton for consideration and approval a list of cultural competency, anti-racism, anti-discrimination training resources.

(1) City Council will budget necessary funds for this training during the budget process. The Binghamton Police Department will engage in the appropriate bidding/vetting process and select from among these resources.

B. REQUIREMENTS. The Binghamton Police Department will include as part of the annual in-service trainings of officers learning objectives that highlight the ineffectiveness and deleterious impact of racial profiling and bias-based policing as a law enforcement practice and that help officers develop further their understanding of equity in policing—particularly racial and gender equity—both within law enforcement agencies and between agencies and the communities they serve.

§ 312-6: RECRUITMENT AND DIVERSIFICATION

The importance of having a police force whose composition closely matches the racial breakdown of the community it serves is accepted by most national law enforcement leaders and criminal justice experts. The U.S. Department of Justice has stated that more diverse police departments are able to develop better relationships with the communities they serve, are more trusted by those communities, and are better able to obtain the support and cooperation of all citizens.

A. REGULATIONS. Upon the enactment of this Act, the Binghamton Police Department will report and make available to the public, data regarding the composition and organizational structure of their department including race, gender, age, and other relevant demographic data.

Not later than six months after the date of enactment of this Act, the City of Binghamton Police Department, in consultation with stakeholders, including the Binghamton Human Rights Commission, the Police Department, and community, professional, research, and civil rights organizations, shall recommend to Binghamton City Council and the Mayor of the City of Binghamton for consideration and approval guidelines for personnel recruitment and hiring policies and programs that aim to increase diversity within the Police Department.

Upon the enactment of this Act, and on an ongoing basis, the Binghamton Police Department will help organize and/or participate in, on an ongoing basis, community-based programs designed to increase trust between the police and the communities with whom relationships with the police have traditionally been tense and to educate these communities on the value of a career in law enforcement.

Not later than one year from the enactment of this Act, the Binghamton Police Department will institute incentive programs, such as a Resident Officer Program, to encourage Binghamton police officers to take up residence within the City of Binghamton. By living in the distressed neighborhoods they are charged with serving and protecting, the Binghamton Police Department can provide police service, increase trust, and be the stimulus that empowers the residents to problem solve, improve their quality of life, and independently take ownership of the neighborhood.

B. REQUIREMENTS. The guidelines mentioned above will include a focus on building positive relationships and trust between the police and traditionally underrepresented communities of

residents with the goal of encouraging the desire to enter into a law enforcement career; supports criminal justice programs in middle and high schools, as well as community colleges and universities around the area; and will better market and make available to traditionally underrepresented communities both civil service exam preparatory classes and civil service exam schedules.

§ 312-7: MISCELLANEOUS PROVISIONS

A. SEVERABILITY. If any provision of this Act, or the application of such a provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the application of the remaining provisions of this Act to any person or circumstance shall not be affected thereby.